

MINUTES OF PUBLIC MEETING
New York City Loft Board Public Meeting

June 20, 2024

The meeting began at 2:18 PM

Attendees: Charles DeLaney, Tenants' Representative; Heather Roslund, Public Member; Samira Rajan, Public Member; Richard Roche, Fire Department's *ex officio*; Guillermo Patino, Chairperson Designee.

INTRODUCTION:

Chairperson Patino welcomed those present to the June 20, 2024 public meeting of the New York City Loft Board. He then briefly summarized Section 282 of the New York State Multiple Dwelling Law, which establishes the New York City Loft Board, and described the general operation of the Board as consistent with Article 7-C of the New York State Multiple Dwelling Law.

VOTE ON MEETING MINUTES:

April 18, 2024, Public Meeting Minutes

Chairperson Patino asked if there were any comments on or corrections to the April 18, 2024. Hearing none, Chairperson Patino then asked for a motion to accept the April 18, 2024.

Mr. Delaney moved to accept the April 18, 2024 meeting minutes and **Ms. Rajan** seconded.

The vote

Members concurring:	Mr. Delaney, Ms. Roslund, Ms. Rajan, Chairperson Patino (4)
Members dissenting:	0
Members abstaining:	Mr. Roche (1)
Members absent:	Mr. Barowitz (1)
Members recused:	0

May 16, 2024, Public Meeting Minutes

Chairperson Patino turned to a vote on the minutes from May 16, 2024 public meeting. Are there any corrections to the minutes? Is there a motion to accept the minutes of May 16, 2024?

Mr. Roche: moved to accept the May 16, 2024 meeting minutes and **Mr. Delaney** seconded.

The vote

Members concurring:	Mr. Roche, Mr. Delaney, Ms. Roslund, Ms. Rajan, Chairperson Patino (5)
Members dissenting:	0

Members abstaining:	0
Members absent:	Mr. Barowitz (1)
Members recused:	0

REPORT OF THE EXECUTIVE DIRECTOR

1. Personnel

It is with great pleasure that I inform you that Renee Storey has been promoted to Deputy Director and Deputy General Counsel. Renee, thank you for all your hard work during the transition period. Welcome to your new role.

We are also close to hiring a new attorney to handle legalization matters including the narrative statement conferences.

2. Litigation

We received one new Article 78 proceeding and three decisions since the May 2024 meeting. Two decisions involved current IMD buildings and one decision involved a former IMD building.

The new Article 78 challenges the removal order for 47 Thames Street in Brooklyn. The tenants argued that the removal order should be annulled because the Loft Board acted beyond its authority, and the removal order violated tenants' due process rights among other claims. We are working with the Law Department.

The first decision involved 385 Troutman Street in Brooklyn. The tenants challenged the administrative determination which rejected comments about the owner's legalization plan. The comments were rejected because the filing did not comply with the filing requirements in the Loft Board's rules.

Instead of filing an administrative appeal application to challenge the determination, tenants filed an Article 78. The court dismissed the case for failure to exhaust administrative remedies.

The second decision involved the Loft Board's motion for leave to appeal to the New York State Court of Appeals. The Loft Board sought review of a decision issued by the Appellate Division which found that the deductions on the tenant's personal and business tax returns are dispositive. Because the rent for the unit was included as a business expense, the court determined that the deductions precluded the tenants from claiming that they were occupying the unit as their primary residence.

The third decision involves a former loft unit that was removed in 2001 pursuant to Order No. 2605. In the order, the Loft Board found that the 5th floor unit was not subject rent regulation based on the prior occupancy of the then-owners.

In the decision, the court found that the current tenant can challenge the rent regulatory status of the unit. The court further found that the unit was not de-regulated, and that the unit was subject to rent stabilization by virtue of Article 7-C.

The owner has filed a notice of appeal.

3. Fact Sheets

Included in the meeting materials were drafts of the fact sheets for sales of rights and sales of improvements. Are there any questions or concerns about the fact sheets?

Mr. DeLaney requested more time to review the fact sheets.

4. Upcoming Public Hearing

Ms. Cruz reminded the Board members and the public about the public hearing in July for the proposed amendments in § 2-04, 2-05, 2-11.1 of Title 29 of the Rules of the City of New York. The amendments proposed to include maintenance of fire egress as a required basic service.

Ms. Roslund asked if we will discuss cases before the public hearing.

Ms. Cruz answered that it had not been decided yet.

Ms. Roslund asked where can the public find the materials for the proposed rule amendments.

Ms. Cruz stated the public can follow the link on the Loft Board's website.

Mr. Delaney asked about the status of extension applications.

Ms. Cruz answered that the staff was working on extension applications.

Mr. Delaney requested that cases with large backups be sent earlier than the Friday before the meeting or tabled for a month.

Chairperson Patino introduced Ms. Storey to present on legalization matters.

LEGALIZATION REPORT

Narrative Statement Conferences

- a. 6 Narrative Statement Conferences.
- b. 16 Narrative Statement Conferences have been scheduled for end of June, July, August, and September
- c. 1 request for a Narrative Statement Conference is pending.

THE CASES:

Summary Calendar:

	Applicant(s)	Address	Docket No.
1.	Christopher Brown, Pamela Brown and Peter Malerba	255 18 Street, Brooklyn	LI-0060
<i>The Loft Board deemed the unreasonable interference application withdrawn with prejudice.</i>			
2.	Eighteen Properties LLC	255 18 Street, Brooklyn	LS-0306
<i>The Loft Board deemed the access application withdrawn without prejudice.</i>			
3.	Jessica Capone	163-165 North 6 Street, Brooklyn	TA-0306
<i>The Loft Board deemed the rent dispute application withdrawn with prejudice.</i>			
4.	Jessica Capone	163-165 North 6 Street, Brooklyn	TN-0234
<i>The Loft Board deemed the noncompliance application withdrawn with prejudice.</i>			
5.	Leila Mougoui Bakhtiari, Bahji Chancey and Erik Freer	129 11 Street, Brooklyn	TR-1477
<i>The Loft Board deemed the application withdrawn without prejudice.</i>			

Mr. Delaney commented that the stipulations for cases three and four where the Loft Board takes its usual position of neither accepting nor rejecting in terms of stipulation is troubling but, he will vote for it.

Chairperson Patino asked for a motion to accept these cases, and for a second.

Mr. Roche moved to accept this case, and **Ms. Rajan** seconded.

The vote

Members concurring:	Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino (5)
Members dissenting:	0
Members abstaining:	0
Members absent:	Mr. Barowitz (1)
Members recused:	0

Master Calendar:

	Applicant(s)	Address	Docket No.
6.	Stephanie Lin	950 Hart Street, Brooklyn	PO-0108 and TA-0261
<i>The Loft Board did not issue a final order in this case.</i>			

Renee Storey presented the case.

Chairperson Patino thanked Ms. Storey asked if there were any comments.

Mr. Delaney stated that he planned to vote no on this case. The weight of the evidence supporting the owner's narrative isn't an applicable standard. I believe that it's been made clear in a bunch of cases

that the burden is on the owner to prove that there was a demonstrable sale here. We're dealing with a very lengthy record that includes limited amount of information, that would be useful to decide. There hasn't been showing of actual consideration here. The former tenants who were alleged to have made the sale of rights were not communicative. The owner did not appear to reach out to former tenants. Neither side attempted to subpoena them. The record shows that they move to a coop in Brooklyn. It's not as if they're in Nepal or some other place. So, I did not feel that the record supports the conclusion.

Mr. Roche added that while he intended to vote in favor of the case but that he wanted to echo the comments of his esteemed colleague. It reminded him of a very foggy drive that just seemed to go on and on forever, and that nothing quite was what it appeared. But at the end of the day, he got through the fog.

Chairperson Patino asked for a motion to accept these cases, and for a second.

Ms. Rajan moved to accept this case, and **Ms. Roslund** seconded.

The vote

Members concurring:	Mr. Roche, Ms. Roslund, Ms. Rajan, Chairperson Patino (4)
Members dissenting:	Mr. DeLaney (1)
Members abstaining:	0
Members absent:	Mr. Barowitz (1)
Members recused:	0

Master Calendar:

	Applicant(s)	Address	Docket No.
7.	70 Wyckoff Avenue LLC	70 Wyckoff Avenue, Brooklyn	LE-0744 and RG-0220
<i>The Loft Board granted the removal application.</i>			
<i>The proposed order was amended on pages one and two to correct the spelling of the occupant names in units 2L, 3M, 3L and PHC. On page three, the name of former tenants in Unit 2A was also corrected. A footnote has been added to the first page to note that title of the Building was transferred to 70 Wyckoff A LLC. A comma was removed from the second page.</i>			

Chairperson Patino asked for a motion to accept these cases, and for a second.

Mr. Delaney moved to accept this case, and **Mr. Roche** seconded.

The vote

Members concurring:	Mr. Roche, Mr. DeLaney, Ms. Roslund, Ms. Rajan, Chairperson Patino (5)
Members dissenting:	0
Members abstaining:	0
Members absent:	Mr. Barowitz (1)
Members recused:	0

Chairperson Patino concluded the June 20, 2024 meeting at 2:39pm and further noted the public hearing about proposed amendments to section 2-04 of Title 29 of the rules of the City of New York, among other sections. The proposed amendments would expand the requirements for basic housing maintenance services to include the maintenance of the existing fire egress systems and would have provisions for enforcement.

He invited the public to comment on the proposed amendments either online or in person. He also noted that the proposed rule changes could be access from the Loft Board's website.